

DRIED FRUITS (AMENDMENT) ACT.

Act No. 6, 1929.

An Act to amend the Dried Fruits Act, 1927, in certain respects; and for purposes connected therewith. [Assented to, 28th March, 1929.]

George V.
No. 6, 1929.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the “Dried Fruits (Amendment) Act, 1929,” and shall be read and construed with the Dried Fruits Act, 1927, which in this Act is referred to as the Principal Act.

(2) The Principal Act, as amended by this Act, may be cited as the Dried Fruits Act, 1927-1929.

2. The Principal Act is amended as follows:—

Amendment of
Act No. 13, 1927.

(a) by inserting at the end of section one the following new subsection:—

(2) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that where any enactment thereof would but for this section have been construed as being in excess of that power it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

(b)

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(Interpreta-
tion.)

- (b) (i) by omitting from section three the definition of "Dealer" and by inserting in lieu thereof the following definition :—

"Dealer" means any person who sells in any one year more than one ton of dried fruits whether on his own behalf or as agent for another person, but does not include—

- (a) a shopkeeper who sells only such dried fruits as he buys from registered dealers; or
 - (b) a grower who sells the dried fruits produced by him to only a registered packing shed or a registered dealer;
 - (c) an auctioneer who sells dried fruits in the ordinary course of his business.
- (ii) by omitting from the definition of "Grower" in the same section the words "of any one variety of the dried fruits to which this Act applies";
- (iii) by inserting in the same section next after the definition of "Grower" the following new definition :—
- "Inspector" means any person appointed as an inspector for the purposes of this Act.

Further
amendment of
Act No. 13, 1927.

New s. 3A.

Extension of
Act.

3. The Principal Act is further amended—

- (a) by inserting next after section three the following new section :—

3A. (1) The Governor may by regulation declare any variety of dried fruits produced in Australia to be a dried fruit for the purposes of this Act.

(2) Any such regulation shall take effect from a date specified in the regulation not earlier than three months after the date of the publication of the regulation in the Gazette.

(b)

- (b) by inserting in section three at the end of the definition of "dried fruits" the words "and any other variety of dried fruit produced in Australia as are declared by the regulations to be a dried fruit for the purposes of this Act."

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Sec. 3.
(Definitions.)

4. The Principal Act is further amended—

Further amendment of Act No. 13, 1927.
New s. 8.

- (a) by omitting section eight and by inserting in lieu thereof the following new section:—

8. (1) The Governor may, on the recommendation of the board, appoint a secretary and any other officers, inspectors, agents, or servants necessary to enable the board to carry out its duties and functions.

The board may authorise any other persons to do such acts and things as it deems necessary for carrying out the provisions of this Act.

(2) The Commission may allow the services of any of its officers, inspectors, and servants to be utilised by the board on such terms and conditions as may be agreed upon between the Commission and the board.

- (b) by omitting section nine and by inserting in lieu thereof the following new section:—

New s. 9.

9. (1) Towards the cost of defraying the expenditure involved in the administration of this Act, and of carrying out the duties and functions of the board thereunder, there shall be a contribution by every grower in respect of dried fruits produced by him.

Board may levy contribution.

Such contribution shall be on the basis, at the times, and in the manner prescribed, and the rates may vary as prescribed for different varieties of dried fruits.

(2) In the case of any dried fruits other than those mentioned in subsection one of this section, and which are prepared, stemmed, processed, graded, sorted, or packed at any packing shed, there shall be a like contribution by the owner of the dried fruit.

(3) The board may at its discretion collect the contribution direct from the grower or the owner of the fruit, or on his behalf

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behalf, from the owner or proprietor of the packing shed to which the fruit has been delivered by the grower.

In the latter case the owner or proprietor may reimburse himself out of any moneys payable by him to the grower, and in the event of his not being in possession of any moneys payable to the grower, may recover as a debt from the grower the amount of the contribution paid by such owner or proprietor to the board.

(4) Any contribution unpaid may be recovered by the board as a debt in any court of competent jurisdiction from the grower, or owner or proprietor of a packing shed, as the case may require.

Amendment of
Act No. 13, 1927.

Sec. 11.

5. The Principal Act is further amended as follows :—

- (a) by inserting after subsection two of section eleven the following new subsection :—

Marketing.

(2A) Except to the extent that the same may be or is authorised by or under any Act of the Parliament of the Commonwealth of Australia, no determination made by the Minister under this section shall operate so as in any way to impair the freedom of trade, commerce, or intercourse among the States;

Sec. 12.

- (b) (i) by omitting paragraph (d) of section twelve;
(ii) by inserting at the end of the same section the following new paragraph (f) and new subsection two :—

General
powers of
board.

- (f) to regulate by any such means as are prescribed the removal of dried fruits from packing sheds.

(2) An exercise by the board of the power conferred by this section shall not operate so as to in any way impair the freedom of trade, commerce, or intercourse among the States.

(c)

- (c) by omitting section thirteen and by inserting in lieu thereof the following new section :—

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New s. 13.

13 (1) Every person who at the commencement of the Dried Fruits (Amendment) Act, 1929—

Registration of growers and dealers.

(a) is a grower and is still engaged as a grower ; or

(b) becomes a grower after that date ; or

(c) at that date is a dealer ; or

(d) becomes a dealer after that date

shall register with the Board as prescribed.

(2) Any person registered as a dealer or grower immediately prior to the said commencement shall be deemed to be registered under this section.

- (d) by omitting section fourteen and by inserting in lieu thereof the following new section :—

New s. 14.

14. Any person who without being registered engages as a grower or dealer shall be liable to a penalty not exceeding one hundred pounds : Provided that any person shall not be prosecuted for a contravention of this section occurring within one month from the date when he commences to so act as a grower or dealer if he applies to be registered as such within that period.

6. The Principal Act is further amended—

Further amendment of Act No. 13, 1927.

- (a) by omitting section fifteen ;

Sec. 15.

- (b) by omitting section sixteen ;

Sec. 16.

- (c) by omitting from subsection one of section twenty-one the words "For the purposes of this Act, or of any contract made by the board, the Governor" and by inserting in lieu thereof the words "The Governor" ;

Sec. 21 (1).

- (d) by omitting from section twenty-two the words "and for the purposes of" ;

Sec. 22.

(e)

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Sec. 25.

- (e) (i) by omitting subsection one of section twenty-five and by inserting in lieu thereof the following new subsection :—

(1) The board may at any time, by notice in writing given to any dealer, require him to furnish in writing to the board within a time to be specified in the notice the prescribed particulars with respect to dried fruits which are at the time, or have previously been, or are likely to be owned by him or under his control or at his disposal, during any period specified by the board, and may by like notice require such dealer to comply with such directions in respect of the aforesaid dried fruits as the board thinks proper, in order to ensure the observance of any determination for the time being in force, or any direction or policy of the board.

- (ii) by omitting from subsection two of the same section the words “to the board within the time mentioned in the notice” and by inserting in lieu thereof the words “in the prescribed form to the board at the times and in respect of the periods prescribed notified to him by it”;

- (iii) by inserting after subsection two the following new subsection :—

New subsec.
2A.

(2A) The board may at any time by notice in writing given to a grower, require him to furnish in writing to the board within the time to be specified in the notice, any particulars the board may require with respect to dried fruits produced or likely to be produced by him during any period to be specified by the board in such notice.

Further
amendment of
Act No. 13, 1927.
New s. 26A.

7. The Principal Act is further amended—

- (a) by inserting next after section twenty-six the following new section 26A :—

Further
powers.

26A. The board may exercise any such powers as are conferred upon it by or under any Act of Parliament of the Commonwealth of Australia relating to dried fruits.

(b)

- (b) (i) by inserting in paragraph (d) of subsection one of section thirty-one after the word "sheds" the words "and the renewal and transfer of the registrations of packing sheds"; No. 6, 1929.
Sec. 31.
- (ii) by inserting at the end of the same subsection the following paragraphs:— New para-
graphs added.
- (h) the situation, construction, operation, maintenance and cleansing of packing sheds;
 - (i) the accommodation for inspectors to be provided within packing sheds;
 - (j) the inspection and regulation of packing sheds, drying grounds and stores, and of machinery appliances, implements and utensils used in reference thereto, and the conditions under which packing sheds, drying grounds and stores shall be conducted;
 - (k) the conditions and times under and at which fruit may be received, prepared, stemmed, processed, graded, sorted, packed, or stored at packing sheds;
 - (l) the removal of dried fruits from packing sheds;
 - (m) the keeping and inspection of records and statistics of dried fruits received at and delivered from packing sheds;
 - (n) the furnishing of periodical returns by the owners, occupiers, or persons in charge of packing sheds;
 - (o) forms to be used under this Act, and the particulars which may be required from growers, dealers, and the owners, occupiers, or persons in charge of registered packing sheds.